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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,078	06/23/2003	Dirk Trossen	042933/262997	1210
826 7590 09/13/2007 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER PATEL, NIRAV B	
			ART UNIT 2135	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/602,078

Applicant(s)

TROSSEN, DIRK

Examiner

Nirav Patel

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered <sup>In part</sup> and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: None.  
Claim(s) objected to: None.  
Claim(s) rejected: 1-24.  
Claim(s) withdrawn from consideration: None.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See continuation sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

Continuation of 3. NOTE: The amended independent claim 10, would raise new issue that would require further consideration and/or thorough search. The amended claim 10 is not entered. Even if the amendment is entered, the cited prior art teaches the claim limitation. See response below.

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed Aug. 24, 2007 have been fully considered but they are not persuasive.

Regarding to applicant's argument, Karmouch does not teach or suggest that the "automatically creating an authorization upon receiving consent". Examiner disagrees with the applicant since Karmouch teaches, a policy server, which distributes the authorization policies to an authorization server. The authorization policies provide, to agents, necessary authorizations to perform a set of actions. The authorization server receives all enable policies that apply to the request. The agent sends a request to the authorization server asking for authorization to execute an action. The authorization server authenticates the agent and generates the ticket (authorization). The authentication server generates the authorization without any interaction/action from a manager or an operator (i.e. automatically) and it creates after or upon receiving the authorization policies. Therefore, it meets the claim limitation "automatically thereafter creating an authorization". Further, in response to the applicant's argument that "there is nothing to suggest that one skilled in the art would have been motivated to combine Karmouch and McCann..", the examiner recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ 2nd 1941 (Fed. Cir 1992). In this case, the combination of Karmouch and McCann teaches the claim subject matter and the combination is sufficient to incorporate the teaching of Karmouch into the teaching of McCann. The modification would be obvious because one of ordinary skill in the art would be motivated to provide location-based service, where users can subscribe to a service to receive location-sensitive content [McCann, paragraph 001 lines 7-9].


Regarding to applicant's argument to claims 2 and 11, Examiner maintains that Karmouch teaches transmitting a request to the first network entity and receiving the consent at the first network entity [Fig. 3]. Mizuno teaches, as shown in Fig. 15, the request is transmitted to the first network entity (2) prior to receiving the rights/consent at the first network entity [Fig. 15]. Therefore, the combination of Karmouch, McCann and Mizuno teaches the claim limitation.

Regarding to applicant's argument to claims 3, 12 and 20, Examiner maintains that Karmouch teaches transmitting the request from the second network entity to the first network entity [Fig. 3]. Fiatal teaches transmitting the trigger from the network entity. The trigger causes the network entity sends the request. Therefore, the combination Karmouch, McCann, Mizuno and Fiatal teaches the claim limitation. However, claim 20 encompasses limitations that are similar to limitation of claims 2 and 3 and thus, it is rejected with the same rationale applied against claims 2 and 3 [see Final office action page 9].

Regarding to applicant's argument to claims 7 and 16, Examiner maintains that the combination of Karmouch, McCann and Pujare teaches the claim subject matter. In response to applicant's argument, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with the applicant was concerned, in order to be relied upon as basis for rejection of the claimed invention. See *In re Ortiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Furthermore, the examiner recognizes that obviousness can only be established by combining or modifying the teaching of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F. 2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ 2nd 1941 (Fed. Cir 1992). The combination is sufficient because one of ordinary skill in the art at the time the invention was made would be motivated to combine Pujare with Karmouch, McCann to provide location-based service, where users can subscribe to a service to receive location-sensitive content [McCann, paragraph 0001 lines 7-9].

The Applicant is reminded that additional modification to clarify the claimed language is necessary for further consideration and distinction from the prior art.

For the above reasons, it is believed that the rejections should be sustained.

  
KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100